

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-090485
	:	TRIAL NO. 09CRB-9384
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
TERRANCE WILSON,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

At the time of his arrest, defendant-appellant Terrance Wilson held a valid concealed-carry permit issued by the state of Ohio. He was in a car with another gentleman when the vehicle was pulled over for a routine traffic stop. Wilson was the driver. When the officers reached the vehicle, they smelled a strong odor of marijuana coming from the vehicle. One of the officers asked Wilson about this. Wilson and the officer then continued for several seconds to discuss the propriety of the traffic stop. Eventually, the officer informed Wilson that he would have to step out of the vehicle. It was at this point that Wilson informed the officer that he was licensed to carry a concealed weapon and that there was a handgun in the vehicle. While the amount of time that passed from the initial encounter to that admission depends on when one begins timing, both Wilson and the state submit that it was 35 seconds. No marijuana was found in the vehicle.

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Wilson was charged with failing to timely notify law enforcement that he had a license to carry a concealed weapon and that he had such a weapon.<sup>2</sup> After a bench trial, he was convicted and sentenced accordingly.

An individual who has been issued a license to carry a concealed weapon must “promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a license \* \* \* and that the person then is carrying a concealed handgun.”<sup>3</sup>

In one assignment of error, Wilson claims that his conviction was based upon insufficient evidence and was against the manifest weight of the evidence. When an appellant challenges the sufficiency of the evidence, we must determine whether the state presented adequate evidence on each element of the offense.<sup>4</sup> On the other hand, when reviewing whether a judgment is against the manifest weight of the evidence, we must determine whether the trier of fact clearly lost its way and created a manifest miscarriage of justice.<sup>5</sup>

Wilson’s sole argument is that he did “promptly” inform the officer that he had a weapon. As one court has noted, “ ‘[t]o do something ‘promptly’ is to do it without delay and with reasonable speed.’ ”<sup>6</sup> Thus, “a person of common intelligence would readily understand this term, as it is used in this situation, to require the license holder to inform the police about the weapon as soon as possible. Certainly, the notification should occur during the initial encounter with the officer.”<sup>7</sup>

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<sup>2</sup> R.C. 2923.12(B).

<sup>3</sup> R.C. 2923.12(B)(1).

<sup>4</sup> See *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52, 678 N.E.2d 541.

<sup>5</sup> See *id.* at 387.

<sup>6</sup> *State v. Brown*, 168 Ohio App.3d 314, 2006-Ohio-4174, 859 N.E.2d 1017, at ¶23, quoting Black’s Law Dictionary (6 Ed.Rev. 1990) 1214.

<sup>7</sup> *Id.*

Under the facts of this case, we cannot say that Wilson informed the officer that he had a concealed-carry license and a weapon “as soon as possible.” Wilson chose instead to ask about the reasons for the traffic stop and to argue with the officer about whether anyone in the vehicle had been using marijuana. Wilson chose not to mention the fact that he was armed until the officer ordered him to exit from the vehicle. Having reviewed the video recording of the traffic stop, one could reasonably surmise that, had the officer not asked Wilson to exit from the vehicle, he would never have informed the officer that he had a weapon.

Based upon our review of the recording, we conclude that Wilson did not inform the officer that he had a weapon as soon as he could have. Instead of telling the police he had a gun, he chose to discuss other matters relating to the stop. Under the facts of this case, the state presented adequate evidence on each element of the offense, and the trial court did not clearly lose its way and create a manifest miscarriage of justice. We overrule Wilson’s sole assignment of error and affirm the judgment of the trial court.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., DINKELACKER and MALLORY, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on May 26, 2010

per order of the Court \_\_\_\_\_.  
Presiding Judge